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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,949	01/13/2004	Tad Kwasniewski	ALT-266	3277
36981	7590	08/14/2006	EXAMINER	
FISH & NEAVE IP GROUP ROPES & GRAY LLP 1251 AVENUE OF THE AMERICAS FL C3 NEW YORK, NY 10020-1105			LE, DINH THANH	
			ART UNIT	PAPER NUMBER
			2816	

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/756,949

Applicant(s)

KWASNIEWSKI ET AL.

Examiner

DINH T. LE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/12/04 &amp; 5/20/05</u> . | 6) <input type="checkbox"/> Other: ____.  |

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## **DETAILED ACTION**

### ***Specification***

The specification has been checked to the extent necessary to determine the presence of all possible minor errors. However, the applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections***

#### ***Claim Rejections - 35 USC § 112***

Claims 1-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Correction or clarification is required.

In claim 1, it is unclear what the “baud period” on line 8 and “series of voltage levels” on line 10 are and where they come from. The recitation “period” on line 11 and “baud period” on line 12 is confusing because it is unclear if these are additional “baud period” and “period” or further recitation of the previously claimed “baud period” on line 8 and “period” on line 6. It is unclear how the magnitude of the output signal can be decreased via a “series of voltage levels” and how this limitation is read on the preferred embodiment. Insofar as understood no such limitation is seen on the drawings. The same is true for claims 10, 14, 15 and 30-31.

In claim 6, the recitation of “the sum” lacks clear antecedent basis. The recitation “baud period” on line 2 is confusing because it is unclear if this additional “baud period” or further recitation of the previously claimed “baud period” in claim 1. The same is true for claim 7.

In claim 14, it is unclear how the reducing can be “repeated” on line 13 and how this limitation is read on the preferred embodiment or seen on the drawings.

In claim 29, the recitation “signal” 12 is on line 12 is confusing because it is unclear if this additional “signal” or further recitation of the previously claimed “signal” on line 1.

In claim 30, the description is incomplete because the “means for decreasing” is not connected to anything. Thus, the claimed decreasing means may not perform the recited function. Also, it is unclear how the recitation “means for decreasing” is read on the preferred embodiment or seen on the drawings.

In claim 31, the description is incomplete because the “means for reducing”, “means for repeating” are not connected to anything. Thus, these claimed means may not perform the recited function. Also, it is unclear how the recitation “means for repeating” and “means for reducing” is read on the preferred embodiment or seen on the drawings. The recitation “means for reducing” on line 15 is confusing because it is unclear if this additional “means for reducing” or further recitation of the previously claimed “means for reducing” on line 13.

The remaining claims are dependent from the above claims and therefore also considered indefinite.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-10, 14 and 30-31 are rejected under 35 USC 103(a) as being unpatentable over Radelinow (US 6,997,534).

As the best construed, Radelinow discloses in Figure 3 a pre-emphasis circuit comprising:

- means (primary stage, secondary stage) for outputting said output signal (OUT1, OUT2) at a first voltage level for a first period of time, said first voltage level greater in magnitude than said input voltage level, said first period of time less than a baud period; and
- means (SW1-SW3, MN2B-MN5B) for decreasing the magnitude of said output signal to a second voltage level for a second period of time, said second voltage level smaller in magnitude than said first voltage level.

However, Radelinow does not disclose that the output signal is outputted at a first period of time less than a baud period. A skilled realizes that the circuit of Radelinow may be used in a communication circuit to receive the a signal at predetermined baud rate. Then, the circuit of Radelinow should be configured as claimed in order to accommodate with the communication circuit. Thus, selecting the time period as claimed is considered to be a matter of a design expedient for an engineer. It would have been obvious to a person having skill in the art at the time the invention was made to select the time period for the circuit of Radelinow as claimed for the purpose of accommodating with the requirement of a predetermined system.

Claims 1 and 30 are rejected under 35 USC 103 (a) as being unpatentable over DeClue et al (US6,281,715).

As the best construed, DeClue et al discloses in Figure 2 a pre-emphasis circuit comprising:

- means (201) for outputting said output signal (OUT, OUTB) at a first voltage level for a first period of time, said first voltage level greater in magnitude than said input voltage level, said first period of time less than a baud period; and
- means (207, IV1-IV4, M25-M28) for decreasing the magnitude of said output signal to a second voltage level for a second period of time, said second voltage level smaller in magnitude than said first voltage level.

However, DeClue et al does not disclose that the output signal is outputted at a first period of time less than a baud period. A skilled realizes that the circuit of DeClue et al may be used in a communication circuit to receive a signal at a predetermined baud rate. Then, the circuit of DeClue et al should be configured as claimed in order to accommodate with communication circuit. Thus, selecting the time period as claimed is considered to be a matter of a design expedient for an engineer. It would have been obvious to a person having skill in the art at the time the invention was made to select the time period for the circuit of DeClue et al as claimed for the purpose of accommodating with the requirement of a predetermined system.

***Allowable Subject Matter***

Claims 15-29 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. These claims are allowable because the prior art of record fails to suggest the control logic coupled to the delay line output nodes and current sources as combined in claims 15 and 29.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DINH T. LE whose telephone number is (571) 272-1745. The examiner can normally be reached on Monday-Friday (8AM-7PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TIMOTHY CALLAHAN can be reached at (571) 272-1740.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

8/5/06

  
DINH T. LE  
PRIMARY EXAMINER